

Notice of Allowability

Application No.

09/800,512

Examiner

Sin J. Lee

Applicant(s)

TAKEDA ET AL.

Art Unit

1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10-30-2003.
2. ☒ The allowed claim(s) is/are 1-16.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No. _____ | 7 <input type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: The amendment of October 30, 2003 overcame all of the previous rejections over Choi et al'438 as addressed in the Office Action mailed on August 11, 2003. Previously, the Examiner stated that the t-butyl group of the t-butyl methacrylate unit in Choi's polymer (poly(hydroxystyrene-t-butyl methacrylate) met descriptions for both R^{10} (in the third repeating unit of the polymer (2)) and R^{11} (in the fourth repeating unit of the polymer (2)). Since there was no requirement in the previous claim language that the third and fourth repeating units of the polymer of formula (2) have to be two different units, the Examiner furthermore stated that the t-butyl methacrylate unit in Choi's polymer taught both the third and fourth repeating units of the present polymer of formula (2). However, the amended claims 1 and 9 now require that present variable R^{10} is not a tertiary alkyl group while R^{11} is a tertiary alkyl group (by doing this, present polymer of formula (2) of claims 1 and 9 now is required to have *at least three different repeating units*, and the third and fourth repeating units of the polymer cannot be identical). Therefore, Choi et al's polymer (which only contains two different repeating units) no longer teaches or suggests present polymer of formula (2) in claims 1 and 9.

2. The following references are considered to be pertinent to present invention but were not applied to reject present claims due to the following reasons:

Takeda et al (6,156,481)'s polymer of formula (2) which is shown in col.3, lines 1-25 teaches present polymer of formula (2) since the second repeating unit of Takeda's polymer is not required to be present and since the R⁹ group in Takeda's polymer is taught to be a tertiary alkyl group preferably. However, Takeda does not teach or suggest present polymer of formula (1). Therefore, present invention of claims 1 and 9, which requires the mixture of a polymer of formula (1) and a polymer of formula (2), is distinguishable over Takeda's invention.

Ikemura et al(6,235,446 B1)'s polymer (A), which is shown in col.2, lines 35-65, col.3, lines 1-16, teaches present polymer of formula (2). However, the reference does not teach or suggest present polymer of formula (1). Therefore, present invention of claims 1 and 9, which requires the mixture of a polymer of formula (1) and a polymer of formula (2), is distinguishable over Ikemura's invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sin J. Lee whose telephone number is (571)272-1333. The examiner can normally be reached on Monday-Friday from 9:00 am EST to 5:30 pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F. Huff, can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

S. J. Lee

S. Lee

January 16, 2004

Mark F. Huff

MARK F. HUFF
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Sin J. Lee

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